

**STANDARD APPLICATION**  
**Harford County**  
**Board of Appeals**  
Bel Air, Maryland 21014

RECEIVED  
NOV 24 2003  
HARFORD COUNTY COUNCIL

Case No. 5388  
Date Filed 11/17/03  
Hearing Date \_\_\_\_\_  
Receipt \_\_\_\_\_  
Fee \$ 700

Shaded Areas for Office Use Only

Type of Application	Nature of Request and Section(s) of Code
<input type="checkbox"/> Administrative Decision/Interpretation	CASE 5388 MAP 69 TYPE Variance and Modification of Condition 6 in Case #4403
<input type="checkbox"/> Special Exception	ELECTION DISTRICT 1 LOCATION 419 Shore Drive, Joppatowne, Md. 21085
<input type="checkbox"/> Use Variance	BY Mr. & Mrs. Theodore Ryder, 417 Shore Drive, Joppatowne, Md. 21085
<input type="checkbox"/> Change/Extension of Non-Conforming U	
<input type="checkbox"/> Minor Area Variance	Appealed because a variance pursuant to Section 267-26A and 267-26C(2) of the Harford County
<input type="checkbox"/> Area Variance	Code to allow an accessory structure and use on a lot without a principal permitted use. A modification
<input checked="" type="checkbox"/> Variance from Requirements of the Code	of Condition #6 in Case #4403 to allow a structure to be located within 75 foot of the shore in a R3/R4
<input type="checkbox"/> Zoning Map/Drafting Correction	District requires approval by the Board.
<input checked="" type="checkbox"/> Modification of Condition	

**NOTE:** A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

**Applicant/Owner (please print or type)**

Name Mr. Theodore Ryder Phone Number 410-538-5259

Address 417 Shore Drive, Joppatowne, MD 21085  
Street Number Street City State Zip Code

Co-Applicant Monica Ryder Phone Number 410-538-5259

Address 417 Shore Drive, Joppatowne, MD 21085  
Street Number Street City State Zip Code

Contract Purchaser N/A Phone Number \_\_\_\_\_

Address \_\_\_\_\_  
Street Number Street City State Zip Code

Attorney/Representative Robert S. Lynch, Esquire Phone Number (410) 838-5522

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, MD 21014  
Street Number Street City State Zip Code

## Land Description

Address and Location of Property 419 Shore Drive, Joppatowne, MD 21085

Subdivision Taylor's Pointe

Lot Number 8

Acreage/Lot Size + 1.26 acres

Election District 01

Zoning R3/R4/I.D.A.

Tax Map No. 69 Grid No. 1A Parcel 268 Water/Sewer: Private \_\_\_\_\_ Public X

List ALL structures on property and current use: The only structure on the lot is the gazebo which is the subject of this case.

Estimated time required to present case: 1 hour

If this Appeal is in reference to a Building Permit, state number N/A

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes X No \_\_\_\_\_

If so, what is the Critical Area Land Use designations: IDA

Is this request the result of a zoning enforcement investigation? Yes X No \_\_\_\_\_

Is this request within one (1) mile of any incorporated town limits? Yes \_\_\_\_\_ No X

## Request

See attached.

## Justification

See attached.

*If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)*

## **REQUEST**

1. The Applicant requests variances from Sections 267-26(A) and 267-26(C)(2) to allow for the establishment of a customary accessory structure and use on an R3/R4 Zoned lot without the existence of a principle permitted use on the Lot.
2. Applicant is requesting a modification condition 6 in Zoning Appeal Case No. 4403 which states "Within 75 feet of the shore, no impervious surfaces or structures be installed or constructed during or after construction of the development with the exception of pier access paths and the piers." Applicant is requesting that the 75 foot restriction be modified to a 50 foot restriction.

## **JUSTIFICATION**

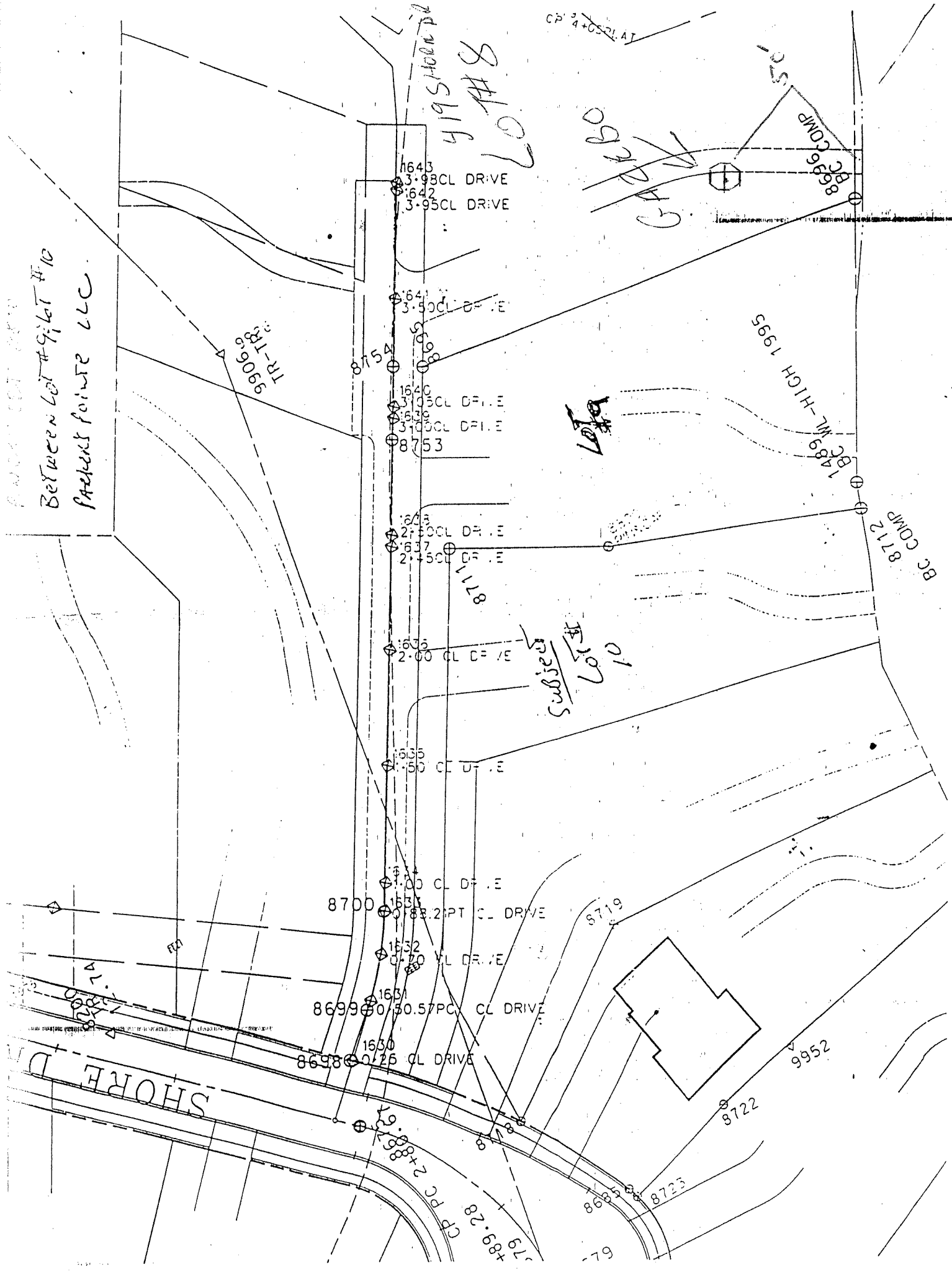
The Applicants are the parents of a 17 year old child who has cerebral palsy and is wheelchair bound. The gazebo was placed within the 75 foot buffer to allow their child to have a view of the water and to experience some level of independence as she can access the gazebo via her motorized wheelchair. Additionally, the Applicants' child is visually impaired and the location of the gazebo in relationship to the water is directly related to the ability of the child to see the water. By reason of the uniqueness of the property and its topographical conditions, literal enforcement of the Code would result in practical difficulty and unreasonable hardship. The granting of the modification and variance will not be substantially detrimental to adjacent properties and will not materially impair the purpose of this Code or the public interest. The modification and variance requested do not exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Code.

Between Lot #9; Lot #10  
Packets Pointe LLC.

2016 8#8

19

Subject Vol 10



BOARD OF APPEALS CASE NO. 4403

BEFORE THE

APPLICANT: WHITE MARSH PROPERTIES

ZONING HEARING EXAMINER

REQUEST: Variances to disturb Critical Area buffer, create 6 panhandles, and construct 16 piers; Anchor Drive and Shore Drive, Joppa

OF HARFORD COUNTY

HEARING DATE: October 24, 1994 and November 7, 1994

Hearing Advertised

Aegis: 9/14/94 & 9/21/94

Record: 9/16/94 & 9/23/94

**ZONING HEARING EXAMINER'S AMENDED DECISION**

The Applicant, White Marsh Properties, Inc. is requesting a variance from the provisions of Harford County Code Section 267-22(G)(1) to allow more than one panhandle (6 proposed); a variance from the provisions of Code Section 267-41.1(G)(2)(a) to disturb within the 100 foot Critical Area Buffer; and a variance to Code Section 267-41.1(F)(7)(C)(1)(c)(vi)(b) to permit more than the required 15 piers (16 proposed).

The subject parcel is located at Anchor Drive and Shore Drive, Joppa Maryland 21085 in the Rumsey Island-Taylor's Pointe subdivision. The parcel consists of 12.44 acres and is more particularly identified on Tax Map 69, Grid 2A, Parcels 177, 178, 180 and 267. The property is located entirely within the First Election District and is presently zoned R4/CA/IDA/FP.

Ms. Arden Holdredge, Chief of Current Planning for the Harford County Department of Planning and Zoning was first to testify. The witness first described the differences between the Applicant's first proposal, a proposal which met with substantial opposition from the Department of Planning and Zoning and Critical Area Commission, and the present proposal. Ms. Holdredge explained that the differences between the two plans are elimination of structures within the Critical Area Buffer and the replacement of a cul-de-sac with a group of panhandle lots on a common drive. The revised layout reduced the number of lots from 19 to 16. The original layout indicated that thirteen (13) residences would encroach within the 100 foot Critical Area Buffer. The present proposal shows each of the homes at a minimum of 110 feet from the shore line except Lots 7 and 8 which are at the 100 foot mark. The total amount of impervious surface is 2.16 acres, representing a 29.0% reduction from the original proposal.

**Case No. 4403 - White Marsh Properties, Inc.**

Additionally, the originally proposed 19 piers has been reduced to 16. Ms. Holdredge went on to say that the present configuration of the lots is the optimum choice due to the unique topographical characteristics of the parcel and the environmental constraints on the property.

It was Ms. Holdredge's opinion that the Applicant had proposed appropriate mitigation relative to buffer disturbance and that it would be an unwarranted hardship to strictly enforce the CA regulations in this case. Additionally, the witness stated that there would not be any adverse impact to adjacent or neighboring properties as a result of the grant of the Applicant's request, nor would any special privilege be conveyed upon the Applicant not commonly enjoyed by other property owners. The witness also stated that there would be no adverse impact on fish or wildlife as a result of the proposed project. In conclusion, Ms. Holdredge stated that the Department of Planning and Zoning supported the proposed development subject to a number of conditions which were discussed at length (see amended Staff Report dated October 19, 1994).

Following the testimony of Ms. Holdredge, a number of area residents testified in support of the project.

The Applicant presented the testimony of Torrence M. Pierce, who qualified as an expert professional engineer and land planner. The witness generally described the development, the lot locations and the various areas of disturbance. The Critical Area disturbance will be between the homes and the waterline because of necessary grading to allow proper drainage. There are piers proposed for each of the properties except Lots 2, 3 and 4 which will share a common pier. As to the individual piers, a ten foot wide walkway is proposed. The witness described the general area of Rumsey Island utilizing a number of exhibits, pointing out that many of the homes in the area already encroach in the 100 foot buffer area although none of the proposed structures do so. The witness described the unique topographical factors of the parcel including the existence of a power line easement, that the parcel is virtually surrounded by water and is irregularly shaped. The witness then discussed each of the conditions of approval recommended by the Department of Planning and Zoning.

In general, the witness felt that the conditions were far too restrictive and recommended some flexibility in the language of those conditions. As to proposed Department condition No. 5, the witness does not believe this to be appropriate, since this area is not proposed to be disturbed and is not part of the overall development.

Mr. Robert Jones appeared on behalf of the Applicant and qualified as an expert in the field of environmental planning. Mr. Jones described the entire project and then discussed the various environmental factors which will be impacted and/or mitigated. The witness stated that this entire portion of Rumsey Island was created by fill and that the Critical Area Buffer accounts for 45% of the developable parcel. There are no threatened or endangered species present. According to the witness, the present proposal reduce the disturbance to the buffer and is in substantial compliance with CA regulations, their intent and purpose. The creation of the panhandle lots has significantly reduced the amount of impervious surface and thus, reduced the post development pollutant loading. The witness stated that there will be no adverse impact on the waters of the Chesapeake Bay, fish or wildlife as a result of the development and further stated that all steps will be taken to mitigate disturbance.

The witness also discussed the proposed conditions and suggested some flexibility in the language. Additionally, the Department has suggested reforestation of trees within the buffer to which the witness agrees, however, the witness feels that 30 foot centers of plantings will be more than adequate while the Department wants a complete reforestation of the buffer.

Mr. Robert T. Nadler appeared in opposition to the request. The witness indicated that he had recently spoken to representatives of the Army Corps of Engineers and the Department of Natural Resources. The witness believes that neither of those agencies will approve permits for this development.

**CONCLUSION:**

The Applicant's request is subject to the following Code requirements:

**Section 267-22(G)(1)**

"Except in Agricultural and Rural Residential Districts, with regard to any parcel, as it existed on September 1, 1982, not more than one (1) lot or five percent (5%) of the lots intended for detached dwellings, whichever is greater, and not more than ten percent (10%) of the lots intended for attached dwellings may be panhandle lots."

**Section 267-41.1(G)(2)(a)**

"Critical area buffer. An area a minimum one hundred (100) feet in width as measured from the mean high water line of tidal waters, tidal wetlands and tributary streams shall be established and maintained in a natural condition. This buffer area is to be expanded beyond one hundred (100) feet to include contiguous sensitive areas such as steep slopes, hydric soils or highly erodible soils whose development or disturbance may impact streams, wetlands or other aquatic environments. In the case of contiguous slopes of fifteen percent (15%) or greater, the buffer is to be expanded four (4) feet for every one percent (1%) of slope or to the top of the slope, whichever is greater in extent."

**Section 267-41.1(F)(7)(c)[1][c][vi][b]**

"A density of slips, piers or mooring buoys to platted lots or dwellings within the subdivision in the critical area according to the following schedule:

**Platted Lots or Dwellings  
in the Critical Area**

**Slips and Dwellings**

Up to 15

1 for each lot

16 to 40

15 or 75%, whichever is greater

41 to 100

30 or 50%, whichever is greater

101 to 300

50 or 25%, whichever is greater

Over 300

75 or 15%, whichever is greater

Additionally, the Harford County Code, pursuant to Section 267-11, permits area variances, provided the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.

Based on all of the testimony presented, the Hearing Examiner concludes that the proposed development is in substantial conformance with the Critical Area requirements and will not result in adverse impact to the waters of the Chesapeake Bay, neighboring properties or the public interest. The property is topographically unique, justifying the request and grant of the variances herein.



The Applicant and the Department of Planning and Zoning differed somewhat as to the proposed conditions of approval. In general, the Department has proposed very strict language which allows virtually no deviation, while the Applicant proposes somewhat more flexibility in regard to clearing and reforestation. By letter dated October 14, 1994, the State of Maryland Chesapeake Bay Critical Area Commission seems to favor a flexible approach to the conditions of approval.

The Department of Planning and Zoning has recommended, for example, the planting of trees within the Buffer to be on no less than 10 foot centers, while the Applicant has proposed the plantings on 30 foot centers. According to the Department of Planning and Zoning, no less than a complete, dense, reforestation is acceptable in the Critical Area Buffer. While the Harford County Code provides little specific guidance in this area, the specific provisions regarding IDA areas requires that all mitigation result in reduction of pollutant loadings by no less than 10%. The Applicant's environmental expert has indicated that this level has been exceeded and that 30 foot centers are adequate. The Harford County Code, pursuant to Section 267-41.1(G)(4)(a)(1) requires only that "The buffer be maintained in natural vegetation and may include planted native vegetation where necessary to protect, stabilize or enhance the shoreline." Based on the testimony presented, it appears to the Hearing Examiner that the planting of trees upon 30 foot centers, together with the planting of native shrubs and wildflowers shall accomplish the purposes set forth in the Code.

There was also discussion regarding the Department's recommended conditions of approval as they affect Lot 1. Lot 1 is presently developed with an existing residence. The Applicant asserts that there is no proposed disturbance on Lot 1; therefore, none of the Buffer reestablishment provisions or conveyance by easement of the Buffer area maintenance should apply. Presumably, the owner of Lot 1 would perform his own lot maintenance. The Applicant ignores, however, that the entire site, including Lot 1 has been submitted for approval as a single development.

Based on the testimony presented, the Hearing Examiner finds it appropriate to include Lot 1 within all of the conditions of development of this site. Having considered the arguments, the Hearing Examiner recommends approval of the Applicant's requests subject to the following conditions:

- 1. A preliminary plan for the development of the site be submitted for review and approval through the Department of Planning and Zoning. This preliminary plan must be consistent with Attachment 17 of Applicant's amended petition. While minor modifications of the plan may be approved, the extent of buffer disturbance may not.**
- 2. Existing overstory and understory vegetation is to be protected as much as possible during construction of water access and shoreline protection measures with the exception of a maximum 10 foot wide area perpendicular to the shore of each pier access which may be cleared as waterfront access. The single path clearing for the multiple pier off Parcel A shall also be no wider than 10 feet. Clearing of pier accesses and for shoreline stabilization shall be minimized and conducted only as necessary.**
- 3. Selective clearing within the existing shoreline vegetation of exotic understory species shall be allowed pursuant to the Landscape Buffer Plan as approved by the Zoning Administrator.**
- 4. For Lots 5-16 inclusive, rear yards shall be established so that the back yards will maintain a 75 foot natural vegetative buffer as much as possible. Within this area, 75 feet landward of mean high tide will be planted with 50 feet of native trees and 25 feet of native shrub species as listed in the Critical Area Commission recommended list of trees and shrubs. Native wildflowers may also be included. Density of plantings shall be such that pollutant loadings are reduced no less than 10.0% and trees shall be planted on centers no less than 30 feet apart.**
- 5. In addition to afforestation of 75 feet of the Buffer on Lots 5-16, identified as Area of Buffer Establishment, a 250 foot long area between the proposed tennis court and shore be afforested with native trees and shrub species to establish a 75 foot wide naturally vegetated buffer consistent with the pattern established on Lots 5-16. The existing maintenance building shall be moved out of the 100 foot Buffer as shown on Applicant's plans. The area of Buffer establishment shall be expanded to include afforestation of the 75 foot Buffer from Lot 16 to the powerline easement area and between the proposed location of the maintenance building and the shoreline.**

**Case No. 4403 - White Marsh Properties, Inc.**

6. Within 75 feet of the shore, no impervious surfaces or structures be installed or constructed during or after construction of the development with the exception of pier access paths and the piers.
7. The 75 foot wide area along the shore together with the areas of Buffer establishment on Lot 1 be encumbered by an easement to the Homeowner's Association which shall be responsible for the maintenance and preservation of the Buffer and its functions.
8. A Buffer Planting Detail Sheet be submitted concurrent with the submission of the preliminary plan. The Detail Sheet must show:
  - a. planting areas of native trees and shrubs 75 feet landward of mean high tide;
  - b. details of pier access including areas to be cleared and materials to be used to construct the pier access paths;
  - c. infiltration trenches, as necessary to meet the 10% pollutant loading reduction requirement, within 25 feet of the houses and no closer to the shoreline than 75 feet;
  - d. size and species of plant materials to be planted;
  - e. spacing between plantings;
  - f. soil amendments for plantings.
9. Calculations of pollutant loading removal to address the 10% rule shall be included with preliminary plan submittal.
10. Any wetland mitigation required by the Army Corps of Engineers and/or Maryland Department of Natural Resources be shown on the preliminary plan and final plats.
11. Wetland mitigation areas shall be protected pursuant to the Army Corps of Engineers Rules and Regulations and may include easement recordation and bonding.

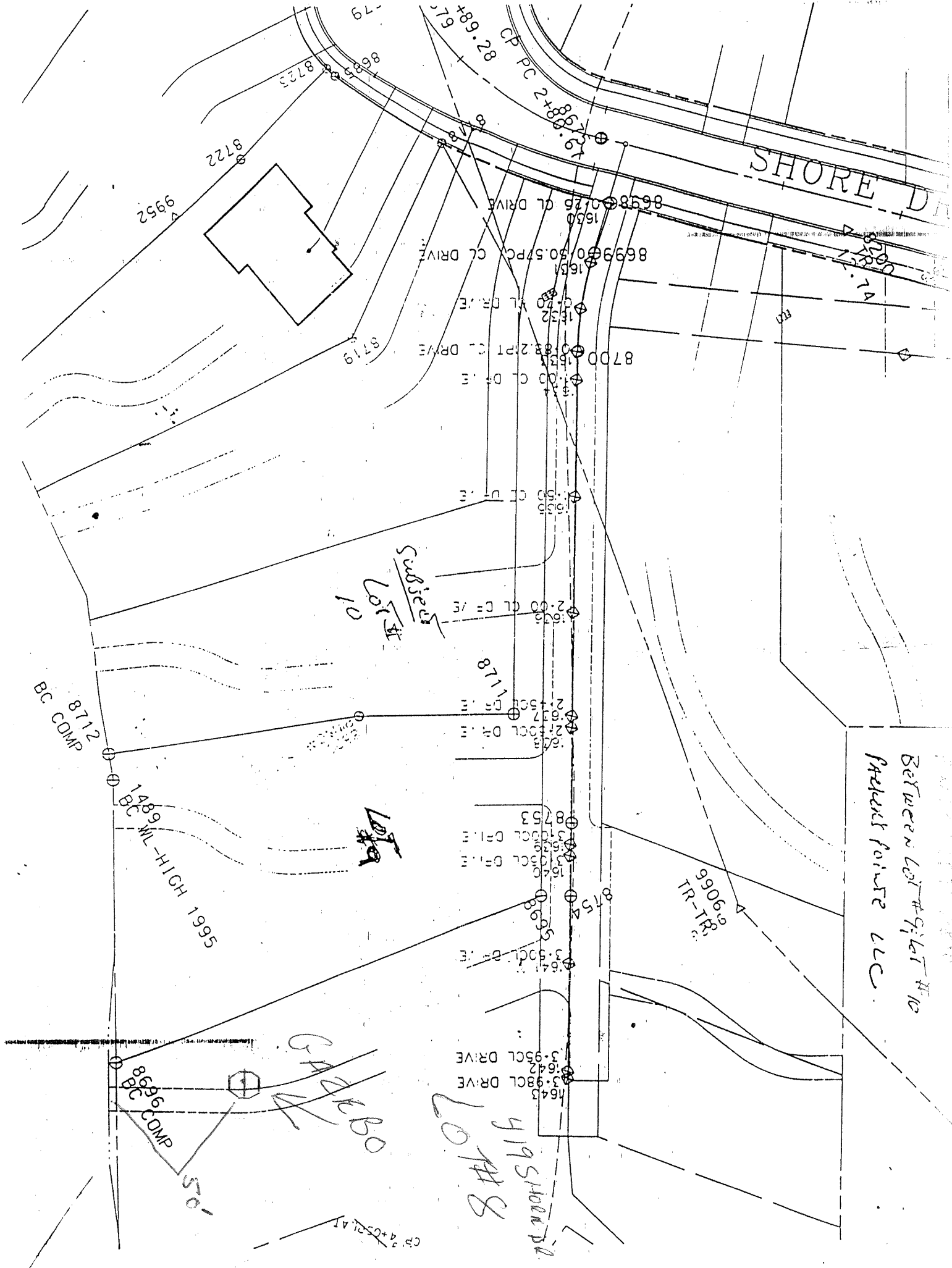
**Case No. 4403 - White Marsh Properties, Inc.**

12. That Applicant obtain any and all necessary permits and inspections from all County, State or Federal regulatory agencies as may be required for this development.

Date

December 16, 1994

William F. Casey  
**William F. Casey**  
**Zoning Hearing Examiner**



**JAMES M. HARKINS**  
HARFORD COUNTY EXECUTIVE

**JOHN J. O'NEILL, JR.**  
DIRECTOR OF ADMINISTRATION



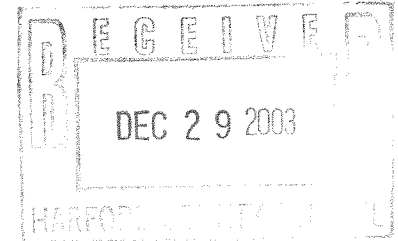
**J. STEVEN KAH-ZIEGLER**  
DIRECTOR OF PLANNING & ZONING

## HARFORD COUNTY GOVERNMENT

### Department of Planning and Zoning

December 24, 2003

#### **STAFF REPORT**



#### **BOARD OF APPEALS CASE NO. 5388**

APPLICANT/OWNER: Theodore Ryder  
417 Shore Drive, Joppatowne, Maryland 21085

Co-APPLICANT/OWNER: Monica Ryder  
417 Shore Drive, Joppatowne, Maryland 21085

REPRESENTATIVE: Robert S. Lynch, Esquire  
Stark and Keenan, P.A.  
30 Office Street, Bel Air, Maryland 21014

LOCATION: 419 Shore Drive – Joppatowne / Taylor's Point  
Tax Map: 69 / Grid: 1A / Parcel: 268 / Lot: 8  
Election District: First (1)

ACREAGE: 1.26 acres.

ZONING: R3/R4/I.D.A.

DATE FILED: November 17, 2003

HEARING DATE: January 21, 2004

#### **APPLICANTS' REQUEST and JUSTIFICATION:**

See Attachment 1.

*Preserving our values. protecting our future.*

## STAFF REPORT

Board of Appeals Case Number 5388

Theodore and Monica Ryder

Page 2 of 4

### **CODE REQUIREMENTS:**

The Applicants are requesting a variance pursuant to Section 267-26A and 267-C (2) of the Harford County Code to allow an accessory structure and use on a lot without a principal permitted use. A modification of Condition #6 in Board of Appeals Case 4403 to allow a structure to be located within 75-feet of the shore (50-foot requested) in an R3/R4/Urban Residential District.

Section 267-26A of the Harford County Code reads:

*Generally. Except as otherwise restricted by this Part 1, customary accessory structures and uses shall be permitted in any district in connection with the principal permitted use within such district. Private roads and driveways shall be permitted in any district as an accessory use to any principal use when located in the same district as the principal use. [Amended by Bill No. 86-31]*

Section 267-26C (2) of the Harford County Code reads:

*No accessory use or structure shall be established on any lot prior to substantial completion of the construction of the principal structure.*

### **LAND USE and ZONING ANALYSIS:**

#### Land Use – Master Plan:

The Applicants' property is located in the southeast area of the County, within the community of Joppatowne/Rumsey Island. The lot is situated to the east side of Shore Drive and on the south side of a common drive serving lots 7, 8 9, 10 and 11 in the subdivision of Taylor's Pointe. The Applicants own lots 8 and 9. Their residence is on 9 and the gazebo is on Lot 8. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 2 and 3).

The subject property is located within the Development Envelope. Land use designations in the area include Low, Medium and High Intensities. Other land uses include Neighborhood and Community Centers and Chesapeake Bay Critical Area. The Applicants' property is designated as Medium Intensity, and is within the Chesapeake Bay Critical Area (IDA). These designations are defined by the Master Plan as:

**Medium Intensity** - Areas within the Development Envelope where residential development is the primary land use. Density ranges from 3.5 to 7.0 dwelling units per acre. Grocery stores, and other commercial uses are examples of some of the more intensive uses associated with this designation.

## STAFF REPORT

Board of Appeals Case Number 5388

Theodore and Monica Ryder

Page 3 of 4

**Intensely Developed Areas** – Areas where residential, commercial, institutional and/or industrial land uses predominate and where relatively little natural habitat occurs. This is where development will continue to be concentrated.

Enclosed with the report are copies of portions of the 1996 Land Use Map and the Natural Resources Map (Attachments 4 and 5).

### Land Use – Existing:

The existing land uses in this area of the County conform to the overall intent of the 1996 Master Plan. The area contains both commercial and residential development. Residential uses include conventional single-family dwellings, townhouses and garden apartments. Commercial uses include shopping centers, individual retail and service uses. Other land uses include schools, churches, a library and parks. Enclosed with the report is a copy of the aerial photograph (Attachment 6).

The Applicants own both lots 8 and 9 in the Taylor's Pointe subdivision (Attachment 7). Both lots are waterfront properties with a view of the bay inlet and the Joppatowne Marina. Lot 9 is improved with a brick and frame 2-story dwelling with an attached 1-car garage, bricked driveway, brick patio, in-ground pool, brick pillars and steel fencing around the patio and pool area. Lot 8 contains a gazebo and a concrete sidewalk leading out from a blacktopped area at the end of the common drive. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 8 and 9).

### Zoning:

The zoning classifications conform to the intent of the Master Plan as well as the existing land uses. Residential zoning ranges from R1 to R4/Urban Residential Districts. Commercial zoning includes B3/General Business along US Route 40 and B1/Neighborhood and B2/Community Business Districts within the communities. The subject property is zoned R3 and R4/Urban Residential. Enclosed with the report is a copy of the zoning map (Attachment 10).

### Zoning Enforcement:

The subject request is the result of a Zoning Enforcement Investigation. The Department received a complaint in June of 2003 that a gazebo had been located within the 100-foot Critical Area Buffer. A letter went out to the Applicants on June 24, 2003, outlining the nature of the complaint and the findings of the site investigation. The letter stated that the 100-foot buffer had been reduced to 75-feet as the result of Board of Appeals Case 4403. Enclosed with the report are copies from the Department's Enforcement File for informational purposes only (Attachment 11).



STAFF REPORT

Board of Appeals Case Number 5388

Theodore and Monica Ryder

Page 4 of 4

**SUMMARY:**

The Applicants are requesting a variance pursuant to Section 267-26A and 267-C (2) of the Harford County Code to allow an accessory structure and use on a lot without a principal permitted use. A modification of Condition #6 in Board of Appeals Case 4403 to allow a structure to be located within 75-feet of the shore (50-feet proposed) in an R3/R4/Urban Residential District.

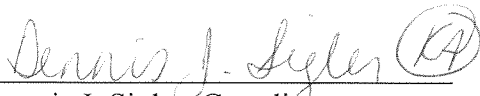
Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicants must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

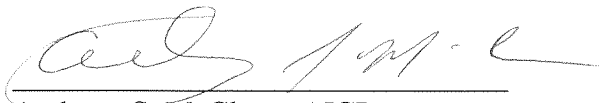
The Board of Appeals in Case #4403 reduced the 100-foot buffer to 75-foot for these lots. The decision stated that the 75-foot wide area along the shore be encumbered by an easement to the Homeowner's Association which shall be responsible for the maintenance and preservation of the buffer and its function within 75-feet of the shore, no impervious surfaces or structures are to be constructed with the exception of pier access paths and the piers. Enclosed with the report is a copy of Board of Appeals decision 4403 (Attachment 12).

The Department finds that the Applicants have provided no evidence to support the requested variance and modification of the conditions in Case #4403. There appears to be no physical constraints which would prohibit the Applicants from combining the lots in order to eliminate the need for the variance. Also, the lot is not unique compared to the other lots in this development. There are not topographic or other features of the lot which would prevent the Applicants from meeting the conditions contained in Case #4403.

**RECOMMENDATION and or SUGGESTED CONDITIONS:**

The Department of Planning and Zoning recommends that the requested variance and modification to the conditions in Case #4403 be denied.

  
Dennis J. Sigler, Coordinator  
Zoning & Board of Appeals Review

  
Anthony S. McClune, AICP  
Deputy Director, Planning and Zoning

DJS/ASM/ka